

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

CARMEN ELSA MCCLINTOCK,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 3:18-cv-01937-SB

ORDER

IMMERGUT, District Judge.

On March 18, 2020, Magistrate Judge Stacie F. Beckerman issued her Amended Findings and Recommendation (“Amended F&R”), recommending that this Court grant Defendant’s Motion to Dismiss for Lack of Jurisdiction and Failure to State a Claim. ECF 25.¹ No party filed objections. Having reviewed the F&R and the filings in this case, this Court adopts the Amended F&R and grants Defendant’s motion.

¹ The Amended F&R superseded the original F&R, which was issued on January 28, 2020. ECF 22.

DISCUSSION

Under the Federal Magistrates Act (“Act”), as amended, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge’s F&R, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, sua sponte” whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

Although no party filed objections, this Court has reviewed de novo the legal issues in the Amended F&R, ECF 25, and adopts it in full. Defendant’s Motion to Dismiss for Lack of Jurisdiction and Failure to State a Claim, ECF 18, is GRANTED. Plaintiff’s Complaint, ECF 2, is dismissed. As Judge Beckerman recommends, Plaintiff may “amend her complaint if she believes she can state a claim against the United States, the U.S. Postal Service, or Wendy Day.” ECF 25 at 7. If Plaintiff chooses to file an amended complaint, she may do so within 21 days of the date of this Order.

IT IS SO ORDERED.

DATED this 14th day of April, 2020.

A handwritten signature in black ink, appearing to read 'Karin J. Immergut', written over a horizontal line.

Karin J. Immergut
United States District Judge